

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v-

CLEAR ALTERNATIVE OF WESTERN N.Y., INC.
d/b/a G&G Petroleum
3109 DELAWARE AVENUE
KENMORE, NEW YORK 14217

and

QUAL ECON LEASE CO, INC.
3109 DELAWARE AVENUE
KENMORE, NEW YORK 14217,

Defendants.

COMPLAINT

The United States of America, by its attorneys, James P. Kennedy, Jr., United States Attorney for the Western District of New York, and Kevin D. Robinson, Assistant United States Attorney, on behalf of its agency, United States Department of Treasury, who is acting on behalf of the United States Environmental Protection Agency (“EPA”), alleges the following:

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1345.

2. Venue is appropriate in the Western District of New York pursuant to 28 U.S.C. §1391(b)(2).

3. The Defendant, CLEAR ALTERNATIVE OF WESTERN N.Y., INC. D/B/A G&G PETROLEUM (hereinafter “G&G”), is a business organized under the laws of the State of New York, with its principal place of business in Kenmore, New York.

4. The Defendant, QUAL ECON LEASE CO, INC. (hereinafter “QEL”), is a company organized under the laws of the State of New York, with its principal place of business in Kenmore, New York.

5. This is a civil action brought by the Plaintiff, the United States of America (hereinafter “United States”) to collect on a debt owed by G&G and QEL (collectively the “Defendants”) in connection with a Default Order and Initial Decision (the “Default Order”) dated July 7, 2014, issued by an Administrative Law Judge for the EPA, pursuant to 40 C.F.R. § 22.19(a). A true and correct copy is attached hereto as **Exhibit “A”**.

6. The EPA determined that the Defendants were joint and severely delinquent for non-payment of \$115,176.00 pursuant to the Default Order, with an annual interest rate of 1.00% and annual penalty rate of 6.00%.

7. As of June 26, 2019, the Defendants are indebted to the United States in the principal amount of \$115,176.00, interest of \$5,590.51, penalties of \$31,815.40, and administrative fees of \$55,136.98, for a total judgment of \$207,718.89, pursuant to 31 U.S.C. 3717(e) and 3711(g)(6) and 7; 31 C.F.R. 285.12(j) and 31 C.F.R. 901.1(f); 40 C.F.R. 13.11 and 28 U.S.C. 527, as outlined in the Certificate of Indebtedness attached hereto and incorporated herein by reference as **Exhibit "B"**.

8. The Defendants were to make full payment no later than September 20, 2014, pursuant to 40 C.F.R. § 22.27(c).

9. The United States mailed two (2) Notices of Delinquency to the Defendant demanding payment on October 16, 2014. A true and correct copy of the Notice is attached hereto as **Exhibit "C"**.

10. The Defendants have has failed or refuses to pay the aforesaid amount although demand has been duly made for payment.

WHEREFORE, the United States respectfully request that this Court enter a judgment against the Defendants as follows:

- (a) In the total amount of \$207,718.89;
- (b) Pre-judgment interest through the date of Judgment;
- (c) Post-judgment interest at the legal rate in effect as of the date of entry of the Judgment until paid in full;

(d) Cost of suit; and

(e) For such other relief which the Court may deem just and proper.

DATED: Buffalo, New York, August 23, 2019.

JAMES P. KENNEDY, JR.
United States Attorney

BY: s/KEVIN D. ROBINSON
Assistant United States Attorney
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
(716) 843-5804
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VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

KEVIN D. ROBINSON, being duly sworn, deposes and says:

1. I am an Attorney duly admitted to practice in the Federal Courts of the Western District of the State of New York and have read the foregoing Complaint.

2. The allegations of the Complaint are true, except those matters alleged on information and belief, and those matters I believe to be true. The grounds of my knowledge and the sources of my information and belief are records of the U.S. Department of Treasury, the Bureau of Fiscal Service, and the Environmental Protection Agency.

s/KEVIN D. ROBINSON
Assistant United States Attorney
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
(716) 843-5804
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Subscribed and sworn to before me

this 23 day of August, 2019.

s/Jennifer Petruso
Notary Public, State of New York
Registration No. 01ME6183752
Qualified in Erie County
My Commission Expires on March 24, 2020.